IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6438 OF 2005

Smt. Sindhu Gharare @ Santoshi ...Petitioner.

V/s.

Smt. Gulabdevi Jayanti Prasad
Santoshi & Ors. ...Respondents.

Mr.S.J.Ghogare and Ms.A.Y.Patil, advs. for the Petitioner.
Mr.A.M.Sarogi,adv.for the Respondent No.1.

ALONGWITH
WRIT PETITION NO.6439 OF 2005

Smt. Sindhu Gharare @ Santoshi ...Petitioner.

V/s.

Smt. Gulabdevi Jayanti Prasad Santoshi
& Ors. ...Respondents.

Mr.S.J.Ghogare and Ms.A.Y.Patil, advs. for the Petitioner.

ALONGWITH
WRIT PETITION NO.6440 OF 2005

Smt. Sindhu Gharare @ Santoshi ...Petitioner.

V/s.

Smt. Gulabdevi Jayanti Prasad
Santoshi And Ors. ...Respondents.

Mr.S.J.Ghogare and Ms.A.Y.Patil, advs. for the Petitioner.

CORAM: R.S.Mohite, J.
DATE : 28th November, 2005.

P.C.:

1. Heard. By consent, **Rule** made returnable

forthwith.

2. All these Petitions raise common issues and hence being disposed of by this common order. The Petitioner Sindhu claims to be the second wife of Respondent No.2 - Jayanti Prasad. Four suits have been filed by the first wife of Jayanti Prasad by name Gulabdevi in respect of four different properties in the Bombay City Civil Court. All these suits were filed in or about October, 2003 and writ of summons were immediately served upon the Defendants. It appears that Written Statements were not filed. The husband made an application under his own signature on 29/09/2004 stating therein that the Written Statements could not be filed as real uncle of Defendant Nos.1 and 2 expired in the month of December, 2003. It appears that this application has not even been verified by the husband, original defendant no.1. This application came to be rejected by the Court on 21/12/2004 on the footing that the Defendant had failed to file Written Statement in time. Advocate for the Defendants made a second application to the Court and this application was dated 3.3.2005. This application was neither signed by the present Petitioner nor there was any verification thereon. Prayer to this application was again for filing a written statement. On 26/7/05 the Court passed an order rejecting the application

on the ground that a brother Judge has already rejected the earlier common application. It is in such circumstances that the present Writ Petition has been filed.

3. In the Petition, there is an allegation of collusion between the husband and first wife. The contention is that the husband had assured the Petitioner that he will take care of the litigation and had obtained her signature on a Vakalatnama. Thereafter, the husband had filed an application giving inadequate reasons for not filing a Written Statement on time.

4. Taking an overall view of the matter, I think that the Petition can be disposed of with direction that the order refusing the taking of the Written Statement on record should be confined only to the husband, Defendant No.1. The order is quashed as against original Defendant No.2. Original Defendant No.2 will have liberty to make a fresh application for filing Written Statement after giving adequate reasons for the delay. If any such application is filed, same will be decided on its own merits without being influenced by any observations of this Court. With such direction, Writ Petition stands finally disposed of and **Rule** is made absolute in the aforesaid terms.

(R.S.MOHITE, J.)